

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

October 24, 1994

DOCKET FILE COPY ORIGINAL

IN REPLY REFER TO:

RECEIVED

OCT 24 1994

FEDERAL COMMUNICATIONS COMMISSION
SECRETARY

The Honorable Patrick J. Leahy
United States Senate
433 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Leahy:

This letter responds to your correspondence on behalf of Shirley Fortier, Telecommunications Manager, University of Vermont, regarding charges on her telephone bill and relating to information services provided on 800 numbers. Your letter, as well as the complaint of your constituent, has been referred to the Enforcement Division of the Common Carrier Bureau for review. The Enforcement Division will communicate with your constituent upon completion of its review.

The Telephone Disclosure and Dispute Resolution Act (TDDRA) was enacted by Congress in 1992 and required both the Federal Communications Commission and the Federal Trade Commission (FTC) to adopt rules governing the provision of pay-per-call services. Under the TDDRA, the FCC has jurisdiction over the telecommunications carriers involved in the transmission and billing of the telephone calls, while the Federal Trade Commission has jurisdiction over the information service companies themselves.

The TDDRA generally required pay-per-call services to be provided on 900 telephone numbers and generally prohibited the provision of these services on 800 numbers, except in instances where the caller has entered into a presubscription agreement or comparable arrangement with the information service provider. Pursuant to the Commission's rules, which became effective on September 24, 1993, a presubscription agreement entails a formal contractual understanding whereby the consumer is provided clearly and conspicuously all terms and conditions associated with the use of the service and affirmatively agrees to abide by them.

The Commission has received numerous complaints similar to those described by your constituent. These complaints are processed by the Enforcement Division of the Common Carrier Bureau by serving a copy of the complaint upon the telecommunication carriers involved, who must generally respond in writing within 30 days. Beyond reviewing these

No. of Copies rec'd _____
List A B C D E _____

The Honorable Patrick J. Leahy
Page 2

complaints and pursuing appropriate action to resolve them, the Commission has undertaken several efforts. First, Common Carrier Bureau staff has met with the carriers that provide the billing service for calls to 800 numbers as well as interexchange carriers who provide the 800 number transport to emphasize their obligations under the TDDRA and the rules of the Commission. Secondly, because the increase in the number of complaints has been so significant, we have started an investigation of these practices, with special focus on whether any companies have attempted to evade or violate our rules. Additionally, as part of the effort to make clear the carriers' responsibilities under the law, the Common Carrier Bureau has recently issued a ruling holding that the information provider's receipt of the originating telephone number, a practice that was serving as the premise of some charges, does not in itself constitute a presubscription agreement.

Moreover, on August 2, 1994, the Commission instituted a Notice of Proposed Rulemaking seeking to strengthen Commission rules to prevent abusive and unlawful practices under the TDDRA. Specifically, the Commission has sought public comment on a proposal to require that a presubscription agreement be established only with a legally competent individual and executed in writing, and that common carriers obtain evidence of the written agreement before issuing a telephone bill that contains charges for presubscribed information services. Under the proposed rules, these telephone bills could be addressed only to the individual who actually entered into the presubscription arrangement, not to the person or company whose telephone was used to place the call. The Commission has tentatively concluded that this and other proposed changes would significantly assist in eliminating the source of many consumer complaints. Enclosed is a summary of the Commission's action in this regard.

We appreciate receiving your correspondence. Please call upon us if we can provide any additional information.

Sincerely,



Kathleen M.H. Wallman
Chief
Common Carrier Bureau

Enclosure

JOSEPH R. BIDEN, JR., DELAWARE, CHAIRMAN

EDWARD M. KENNEDY, MASSACHUSETTS
HOWARD M. METZENBAUM, OHIO
DENNIS DECONCINI, ARIZONA
PATRICK J. LEAHY, VERMONT
HOWELL HEFLIN, ALABAMA
PAUL SIMON, ILLINOIS
HERBERT KOHL, WISCONSIN
DIANNE FEINSTEIN, CALIFORNIA
CAROL MOSELEY BRAUN, ILLINOIS

ORRIN G. HATCH, UTAH
STROM THURMOND, SOUTH CAROLINA
ALAN K. SIMPSON, WYOMING
CHARLES E. GRASSLEY, IOWA
ARLEN SPECTER, PENNSYLVANIA
HANK BROWN, COLORADO
WILLIAM S. COHEN, MAINE
LARRY PRESSLER, SOUTH DAKOTA

CYNTHIA C. HOGAN, CHIEF COUNSEL
CATHERINE M. RUSSELL, STAFF DIRECTOR
MARK R. DISLER, MINORITY STAFF DIRECTOR
SHARON PROST, MINORITY CHIEF COUNSEL

CCB
CC-800
3940
United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

August 8, 1994

Federal Communications Commission
Office of the Chairman
1919 M Street, NW
Washington, DC 20554

Dear Chairman Hundt:

I am enclosing a letter that I received from Ms. Shirley Fortier, Telecommunications Manager at the University of Vermont, a constituent of mine. I would appreciate any assistance you could provide her in this matter. I would also like to know what steps, if any, the FCC is taking to address the problem of billing for calls to 1-800-service numbers.

Sincerely,



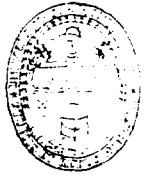
PATRICK J. LEAHY
United States Senator

PJL/jud

Enclosure

The University of Vermont

TELECOMMUNICATIONS SERVICES
104 SOUTHWICK
BURLINGTON, VERMONT 05405-0143
(802) 656-3337



July 18, 1994

The Honorable Patrick J. Leahy
United States Senate
513 Hart Building
Washington, DC 20510-4503

Dear Senator Leahy:

I am writing to request your support and/or intervention with the Federal Communications Commission on behalf of the University of Vermont.

Since early 1993, the University has been billed through NYNEX (New England Telephone acts only as the billing agent) for "services" provided by companies who use 1-800 service numbers and then bill the University for these calls. Traditionally, 800-number calls are free to the caller, but these calls are billed back as incoming or Collect calls to NYNEX Central Office trunks assigned to the University's telephone (PBX) system for OUTGOING calls only, or are charged back to Calling Cards that the companies issue over the phone to the caller. The "called number" reference on the billing is never the 800 number that was dialed, it is generally one of many extension numbers assigned to the "service provider", ie, 913-338-1574 and listed as Info Call, or COL for collect.

We are informed by NYNEX to contact the service provider. The list of these "service providers" grows and changes monthly. They include, but are not limited to Integretel, ITA, Info Access, TelAmerica, Federal Trans Tel, Inc., and American Telnet Billing Services (see attached copy of their letter to the University). In just the past two months, American Telnet Billing Services has billed the University for over \$1,200 for calls to 1-800-service numbers.

If and when we can reach someone and not a recording, we are told in most cases that "someone with access to your telephone or phone system accepted the charges or requested a free calling card or pin number and we cannot issue a credit". We are then informed that if we send them a list of all our numbers they will "try" to list them in their system so they will be blocked from future use. We already pay a monthly fee to NYNEX for call blocking for third party billed calls and collect calls to the entire 802-656 exchange and our trunk lines.

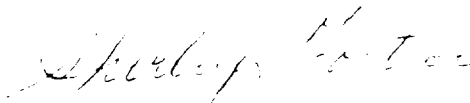
page 2

The University has disputed and refused to pay charges associated with these calls and will continue to do so. We have informed NYNEX in each situation and asked that the charges be removed from our account. They have been complying with our requests, but each month there are new charges and new service providers. Sadly, we are not the only college or university experiencing this problem. Schools and businesses all over the United States are being affected by this situation.

It is my understanding that the Informal Complaints Branch (Branch) of the Common Carrier Bureau is conducting an inquiry into the practice of "pay-for-call" charges for calls placed to 1-800 service numbers, based on a complaint from the University of New Hampshire through Representative William H. Zeff, Jr., of New Hampshire.

Representative Zeff's office received a letter from Robert W. Spangler, Deputy Chief of the Enforcement Bureau of the FCC (Referral: Stop Code 1600A2, IC-94-04404 9400780) stating that an inquiry was warranted in this matter. Any action or inquiry from your office on behalf of the University in this matter would be greatly appreciated.

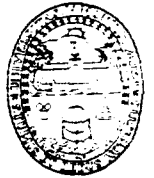
Sincerely,



Shirley Fortier
Telecommunications Manager

The University of Vermont

TELECOMMUNICATIONS SERVICES
104 SOUTHWICK
BURLINGTON, VERMONT 05405-0143
(802) 656-3337



July 15, 1994

American Telnet Billing Services
P.O. Box 7900930
San Antonio, Texas 78279-0930

Re: Bill Back for 1-800 dialed calls

To Whom It May Concern

We are in receipt of your three dozen form letters stating that you will not issue credit to our institution for billing for calls placed to 1-800 dialed numbers. As your reason, you state that your computer retained the telephone number from which the call originated, and the caller was issued a free calling card number.

You were advised by our office, that the originating number was a NYNEX Central Office trunk number assigned to the University of Vermont's PBX system and is an outgoing trunk only. You were also advised that the University subscribes to call blocking for third party charges and collect call blocking to our entire exchange number as well as to our trunk lines.

However, the main issue here is the fact that you have not been authorized by anyone at the University to issue calling cards to numbers that are assigned to and paid for by the University. Therefore, we will not be responsible for the payment nor the collection of fees charged to these lines.

Please find attached a list of the University's trunk numbers which are covered by call blocking as well as the entire 802-656 exchange. Once again, we will not be responsible for payment nor the collection of fees charged to this lines.

Sincerely,

A handwritten signature in cursive script, appearing to read "Shirley Fortier".

Shirley Fortier
Telecommunications Manager

AMERICAN TELNET BILLING SERVS
P.O. Box 790930
SAN ANTONIO, TEXAS 78279-0930

DATE: 06/23/94

UNIVERSITY OF VERMONT
104 SOUTHWICK//REDSTONE CAMPUS
BURLINGTON, VT 05405
ATTN:

RE: Account number (802) 657-3154

Amount disputed \$31.92 plus tax

Bill Date 03/18/94

Dear Customer:

In reference to the above account number, bill date, and disputed amount, AMERICAN TELNET BILLING SERVS cannot issue credit due to the following:

SOMEONE WITH ACCESS TO YOUR TELEPHONE DIALED A 1-800 NUMBER TO REQUEST OUR SERVICES. OUR COMPUTER RETAINED THE TELEPHONE NUMBER FROM WHICH THE CALL ORIGINATED. THE CALLING PARTY WAS INSTRUCTED TO PRESS THE STAR KEY TO RECEIVE A FREE CALLING CARD NUMBER (THE LAST FOUR DIGITS OF THE ORIGINATING NUMBER & A FOUR-DIGIT PIN CODE). THE CALLER WAS INSTRUCTED TO LEAVE A VOICE-CAPTURE MESSAGE STATING NAME & BIRTHDATE (THIS INFORMATION IS NOT MANDATORY). THE CALLER WAS THEN INSTRUCTED TO HANG UP & REDIAL THE 800 NUMBER TO USE THE CALLING CARD NUMBER TO RECEIVE SERVICE. SERVICE CAN ONLY ORIGINATE FROM THE NUMBER TO WHICH THE CALLING CARD WAS ASSIGNED. ALTHOUGH YOU ARE RESPONSIBLE FOR PAYMENT OF CHARGES, NO FURTHER SERVICE WILL BE ALLOWED FROM OUR FACILITIES.

If you have any questions and/or comments relating to this inquiry and the subsequent results, please contact one of our Customer Service Representatives at 1-800-460-0307. Our business hours are Monday through Friday, 9 a.m. to 6 p.m. Central Standard Time.

(1736)

AMERICAN TELNET BILLING SERVS
P. O. Box 790930
SAN ANTONIO, TEXAS 78279-0930

10

DATE: 06/23/94

UNIVERSITY OF VERMONT
104 SOUTHWICK//REDSTONE CAMPUS
BURLINGTON, VT 05405

RE: Account number (802) 657-3464

Amount disputed \$20.00 plus tax

Bill Date 02/18/94

Dear Customer:

In reference to the above account number, bill date, and disputed amount, AMERICAN TELNET BILLING SERVS cannot issue credit due to the following:

SOMEONE WITH ACCESS TO YOUR TELEPHONE DIALED A 1-800 NUMBER TO REQUEST OUR SERVICES. OUR COMPUTER RETAINED THE TELEPHONE NUMBER FROM WHICH THE CALL ORIGINATED. THE CALLING PARTY WAS INSTRUCTED TO PRESS THE STAR KEY TO RECEIVE A FREE CALLING CARD NUMBER (THE LAST FOUR DIGITS OF THE ORIGINATING NUMBER + A FOUR-DIGIT PIN CODE). THE CALLER WAS INSTRUCTED TO LEAVE A VOICE-CAPTURE MESSAGE STATING NAME & BIRTHDATE (THIS INFORMATION IS NOT MANDATORY). THE CALLER WAS THEN INSTRUCTED TO HANG UP & REDIAL THE 800 NUMBER TO USE THE CALLING CARD NUMBER TO RECEIVE SERVICE. SERVICE CAN ONLY ORIGINATE FROM THE NUMBER TO WHICH THE CALLING CARD WAS ASSIGNED. ALTHOUGH YOU ARE RESPONSIBLE FOR PAYMENT OF CHARGES, NO FURTHER SERVICE WILL BE ALLOWED FROM OUR FACILITIES.

If you have any questions and/or comments relating to this inquiry and the subsequent results, please contact one of our Customer Service Representatives at 1-800-460-0307. Our business hours are Monday through Friday, 8 a.m. to 6 p.m. Central Standard Time.

(2436)